

## REMARKS

### I. STATUS OF THE CLAIMS

In accordance with the foregoing claims 1, 2, 5-8, 10-17, 19 and 21 are pending and under consideration.

### II. OBJECTIONS

The claims have been amended to overcome the objections. Therefore, it is respectfully submitted that the objections are overcome.

### III. REJECTION OF CLAIMS 1, 5, 7, 8, 10-12, 19 AND 21 UNDER 35 U.S.C. 103(a) AS BEING UNPATENTABLE OVER SUZUKI ET AL. (US 5,736,982) IN VIEW OF LILES ET AL. (US 5,880,731)

Claim 5 has been amended to recite the image representations and/or physical representations of the chat participants are operated by the transmitted determined plurality of the different control instructions and/or the determined plurality of the different operation instructions corresponding to the event. Support for the aforementioned recitation may be found in at least page 22, lines 12-22. Applicants respectfully submit the cited art fails to teach or suggest at least the aforementioned recitation of currently amended claim 5.

Lilies relates to a use of avatars with automatic gesturing and bounded interaction in an on-line chat session. Each participant in the chat session is enabled to select one of a plurality of different avatars to represent the participant in a graphic chat session. See Abstract of Liles. FIG. 3 of Liles illustrates a character selection dialog box 70 that enables the user to select the avatar that will represent the user in an on-line chat session. See column 6, lines 50-53. Accordingly, the user selects the alleged image representations and/or physical representations.

The Applicants respectfully submit the aforementioned description of Liles differs from the recitations of currently amended claim 5; specifically, the image representations and/or physical representations of the chat participants are operated by the transmitted determined plurality of the different control instructions and/or the determined plurality of the different operation instructions corresponding to the event.

Although the above comments are specifically directed to currently amended claim 5, it is respectfully submitted that the comments would be helpful in understanding various differences of various other claims over the cited references.

In view of the above, it is respectfully submitted that the rejection is overcome.

**IV. REJECTION OF CLAIMS 2 AND 6 UNDER 35 U.S.C. 103(a) AS BEING UNPATENTABLE OVER SUZUKI IN VIEW OF LILES IN FURTHER VIEW OF TOOMEY ET AL. (US 6,119,147)**

Claims 2 and 6 directly depend from claims 1 and 5, respectfully. Therefore, claims 2 and 6 are allowable for at least the reasons stated in section III above.

Toomey relates to a method and system for computer-mediated, multi-modal, asynchronous meetings in a virtual space, and is cited for its alleged disclosures of various features of dependent claims 2 and 6. Applicant respectfully submits that Toomey does not remedy the aforementioned deficiencies cited in Section III above.

In view of the above, it is respectfully submitted that the rejection is overcome.

**V. REJECTION OF CLAIM 13 UNDER 35 U.S.C. 103(a) AS BEING UNPATENTABLE OVER SUZUKI IN VIEW OF LILES IN FURTHER VIEW OF APPLICANT'S ADMITTED PRIOR ART**

Claim 13 depends from currently amended claim 5. Therefore, claim 13 is allowable for at least the reasons stated in Section III above.

On page 9 of the outstanding Office Action, the Examiner asserts the Applicant failed to adequately traverse the Official Notice in the responses of February 16, 2006, or June 01, 2006. The Applicants respectfully disagree with the Examiner regarding the Applicants providing an inadequate traversal.

The Applicants respectfully submit the Official Notice of claim 13 in the June 16, 2005, Office Action was improper. The Office Action states, "Although Suzuki shows substantial features of the claimed invention, Suzuki does not show number of chat participants exceeds a predetermined number, a change in mode of a topic, a statement of a chat participant nickname or name, chatting is frequent, and specifying a chat participant image representation. Nonetheless a person of ordinary skill in the art would have realized these features are well known events in a chat environment."

Official Notice unsupported by documentary evidence should only be taken where the asserted facts are well-known, or considered to be common knowledge in the art capable of instant and unquestionable demonstration as being well-known. See MPEP 2144.03. Applicants respectfully submit that the Office Action fails to state a fact that is well-known; but instead, appears to rely upon a subjective belief in stating, "a person of ordinary skill in the art would have realized these features."

The Applicants respectfully traverse the Official Notice taken, and request the Examiner produce authority for his assertion. The Applicants specifically point out the following errors in the Examiner's action.

First, the Examiner uses common knowledge as the principal evidence for the rejection. As explained in M.P.E.P. § 2144.03(E):

any facts so noticed should . . . serve only to 'fill in the gaps' in an insubstantial manner which might exist in the evidentiary showing made by the Examiner to support a particular ground of rejection. It is never appropriate to rely solely on common knowledge in the art without evidentiary support in the record as the principal evidence upon which a rejection was based.

Second, the noticed fact is not considered to be common knowledge or well-known in the art. In this case, the feature is not of notorious character or capable of instant and unquestionable demonstration as being well-known. Instead, this feature is unique to the present invention. See M.P.E.P. § 2144.03(A) ("the notice of facts beyond the record which may be taken by the Examiner must be "capable of such instant and unquestionable demonstration as to defy dispute").

Third, there is no evidence supporting the Examiner's assertion. See M.P.E.P. § 2144.03(B) ("there must be some form of evidence in the record to support an assertion of common knowledge").

Fourth, it appears that the Examiner also bases the rejection, at least in part, on personal knowledge. The Examiner is required under 37 C.F.R. § 1.104(d)(2) to support such an assertion with an affidavit when called for by the Applicant. Thus, Applicant calls upon the Examiner to support such assertion with an affidavit.

In view of the above, it is respectfully submitted that the rejection is overcome.

**VI. REJECTION OF CLAIMS 14-17 UNDER 35 U.S.C. 103(a) AS BEING UNPATENTABLE OVER SUZUKI IN VIEW OF LILIES IN FURTHER VIEW OF SHIIO**

Claims 14-17 directly or indirectly depend from currently amended claim 5. Therefore, claims 14-17 are allowable for at least the reasons stated in section III above.

Shiio relates to a virtual conference system and terminal apparatus therefor, and is cited for its alleged disclosures of various features of dependent claims 14-17. Applicants respectfully submit that Shiio does not remedy the aforementioned deficiencies cited in Section III above.

In view of the above, it is respectfully submitted that the rejection is overcome.

#### VII. OFFICIAL NOTICE

The Applicants respectfully submit the arguments presented in Section V of the present response overcome the Official Notice taken in the outstanding Office Action.

#### VIII. CONCLUSION

There being no other objections or rejections, it is submitted that the application is in condition for allowance. An early action to that effect is courteously solicited.


Finally, if there are any formal matters remaining after this response, the Examiner is requested to telephone the undersigned to attend to these matters.

If there are any additional fees associated with filing of this Amendment, please charge the same to our Deposit Account No. 19-3935.

Respectfully submitted,

STAAS & HALSEY LLP

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By:   
Joseph W. Iskra  
Registration No. 57,485

1201 New York Ave, N.W., 7th Floor  
Washington, D.C. 20005  
Telephone: (202) 434-1500  
Facsimile: (202) 434-1501